

HOUSE BILL NO. 313  
INTRODUCED BY C. SCHREINER

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING SCHOOL TRUANCY LAWS; PROVIDING CONSEQUENCES TO A TRUANT CHILD AND THE CHILD'S PARENT OR GUARDIAN; CLARIFYING THAT A HABITUALLY TRUANT CHILD MAY BE REFERRED TO YOUTH COURT; AMENDING SECTIONS 20-5-104, 20-5-105, 20-5-106, AND 41-5-103, MCA; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 20-5-104, MCA, is amended to read:

**"20-5-104. Attendance officer.** In order to enforce the compulsory attendance provisions of this title, each district shall have at least one person serving as an attendance officer according to the following requirements:

(1) districts of the first class and districts of the second class with a dropout rate higher than the statewide average dropout rate as calculated by the office of public instruction shall appoint one or more of the district's staff as attendance officers;

(2) districts of the second class with a dropout rate at or below the statewide average dropout rate as calculated by the office of public instruction and districts of the third class may employ and appoint one or more of the district's staff as officers; or

(3) the county superintendent must be the attendance officer in second class or third-class districts that do not appoint an attendance officer."

{Internal References to 20-5-104:  
20-3-206 }

**Section 2.** Section 20-5-105, MCA, is amended to read:

**"20-5-105. Attendance officer -- powers and duties.** The attendance officer of a district:

(1) must, subject to district policy, be vested with police powers, the authority to serve warrants, and the authority to enter places of employment of children in order to enforce the compulsory attendance provisions of this title;

(2) may, subject to district policy, take into custody any child subject to compulsory attendance who is not excused under the provisions of this title and conduct the child to the school in which the child is or should be enrolled;

(3) may, subject to district policy, do whatever else is required to investigate and enforce the compulsory attendance provisions of this title and the pupil attendance policies of the trustees;

(4) may, subject to district policy, institute proceedings against any parent, guardian, or other person violating the compulsory attendance provisions of this title;

(5) may, subject to district policy, keep a record of transactions for the inspection and information of the trustees and make reports in the manner and to whomever the trustees designate; and

(6) may, subject to district policy, perform any other duties prescribed by the trustees to preserve the morals and secure good conduct of the pupils of the district."

{Internal References to 20-5-105: None.}

**Section 3.** Section 20-5-106, MCA, is amended to read:

**"20-5-106. Truancy.** (1) For the purposes of this part "truant" or "truancy" means the persistent nonattendance without excuse, as defined by district policy, for all or any part of a school day equivalent to the length of one class period of a child required to attend a school under 20-5-103.

(2) If an attendance officer discovers a child truant, the attendance officer may make a reasonable effort to notify the parent, guardian, or other person responsible for the care of the child that the continued truancy of the child may result in the prosecution of the parent, guardian, or other person responsible for the care of the child under the provisions of this section. If the child is discovered to be truant after the attendance officer has made a reasonable effort to notify the parent, guardian, or other person responsible for the care of the child, the attendance officer may require that the parent, guardian, or other person responsible for the care of the child and the child meet with an individual designated by the school district to formulate a plan to address and resolve the truancy and otherwise improve the family's engagement and support of the district's efforts to educate the child. If the parent, guardian, or other person responsible for the care of the child fails to meet with the designated individual or fails to uphold the responsibilities under the provisions of the plan, the attendance officer may refer the matter to the prosecuting attorney in a court of competent jurisdiction for a determination regarding whether to prosecute the parent, guardian, or other person responsible for the care of the child.

(3) (a) If convicted, the person shall be fined not more than \$500, be ordered to perform community service or be required to give bond in the penal sum of \$100, with sureties, conditioned on the person's agreement to cooperate with the district in implementing the plan provided for in subsection (2) for the remainder of the current school term.

(b) If a person fails to comply with an order of the court issued under subsection (3)(a), the person shall be imprisoned in the county jail for a term of not less than 10 days or more than 30 days.

(4) (a) If the child is discovered by the attendance officer to be truant on 9 or more days or 54 or more parts of a day in 1 school year, the child may be referred to youth court as habitually truant under Title 41, chapter 5.

(b) Following a referral to youth court under (4)(a), AN attendance officer shall inform the youth court of any subsequent trancies by the child, and the youth court may find the child to be a youth in need of intervention pursuant to 41-5-103 and make any of the dispositions provided in 41-5-1512."